

timely objection by the party, the Presiding Officer will determine the extent to which the interrogatories will be permitted.

(d) *Admission of facts.* After the issuance of a Notice of Docketing and Hearing, a party may serve upon the other party a request for the admission of specified facts. Within 30 days after service, the party served shall answer each requested fact or file objections thereto. Upon timely objection by the party, the Presiding Officer will determine the extent to which the request for admission will be permitted. The factual propositions set out in the request shall be deemed admitted upon the failure of a party to respond to the request for admission.

(e) *Production and inspection of documents.* Upon motion of a party showing good cause therefor, and upon notice, the Presiding Officer may order the other party to produce and permit the inspection and copying or photographing of any designated documents or objects, not privileged, specifically identified, and their relevance and materiality to the cause or causes in issue explained, which are reasonably calculated to lead to the discovery or admissible evidence. If the parties cannot themselves agree thereon, the Presiding Officer shall specify just terms and conditions in making the inspection and taking the copies and photographs.

(f) *Limitations.* A discovery procedure may not be used to reach documents, transcripts, records, or other material which a person is not entitled to review pursuant to § 958.11.

§ 958.13 Sanctions.

(a) *In general.* The Presiding Officer may sanction a person, including any party, attorney or representative, for:

- (1) Failing to comply with a lawful order or prescribed procedure;
- (2) Failing to prosecute or defend an action; or
- (3) Engaging in other misconduct that interferes with the speedy, orderly, or fair conduct of the hearing.

(b) *Reasonableness.* Any such sanction, including but not limited to those listed in paragraphs (c), (d), and (e) of this section, shall reasonably relate to

the severity and nature of the failure or misconduct.

(c) *Failure to comply with an order.* When a party fails to comply with an order, including an order for taking a deposition, the production of evidence within the party's control, or a request for admission, the Presiding Officer may:

- (1) Draw an inference in favor of the requesting party with regard to the information sought;
- (2) Prohibit such party from introducing evidence concerning, or otherwise relying upon, testimony relating to the information sought;
- (3) Permit the requesting party to introduce secondary evidence concerning the information sought; and
- (4) Strike any part of the pleadings or other submissions of the party failing to comply with such request.

(d) *Failure to prosecute or defend.* If a party fails to prosecute or defend an action under this part, the Presiding Officer may dismiss the action, or enter an order of default and an Initial Decision.

(e) *Failure to file timely.* The Presiding Officer may refuse to consider any motion or other pleading, report, or response which is not filed in a timely fashion.

§ 958.14 Ex parte communications.

Communications between a Presiding Officer and a party shall not be made on any matter in issue unless on notice and opportunity for all parties to participate. This prohibition does not apply to procedural matters. A memorandum of any communication between the Presiding Officer and a party shall be transmitted by the Presiding Officer to all parties.

§ 958.15 Post-hearing briefs.

Post-hearing briefs and reply briefs may be submitted upon such terms as established by the Presiding Officer at the conclusion of the hearing.

§ 958.16 Transcript of proceedings.

Testimony and argument at oral hearings shall be reported verbatim, unless the Presiding Officer orders otherwise. Transcripts or copies of the proceedings may be obtained by the parties at such rates as may be fixed by